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15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

17 AN PHAN and TAYLOR BARTLETT, as  
18 individuals and on behalf of all  
others similarly situated,

19 Plaintiffs,

20 v.

21 GRAND BAHAMA CRUISE LINE, LLC, a  
22 limited-liability company; BAHAMAS  
PARADISE CRUISE LINE, LLC, a limited-  
23 liability company; CRUISE OPERATOR,  
INC., d/b/a BAHAMAS PARADISE CRUISE  
24 LINE, a corporation; and Does 1 through 50,  
inclusive,

25 Defendants.  
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Case No. 15-cv-05019-BLF

**PLAINTIFFS' REQUEST TO FILE  
RESPONSE TO NEWLY RAISED  
AUTHORITY CITED IN DEFENDANTS'  
REPLY IN SUPPORT OF MOTION TO  
DISMISS**

Date: April 7, 2016  
Time: 9:00 a.m.  
Crtrm.: 3

The Hon. Beth Labson Freeman

Plaintiffs An Phan and Taylor Bartlett (“Plaintiffs”) hereby request leave to file a response to the newly raised authority cited in Defendants Bahamas Paradise Cruise Line, LLC’s and Cruise Operator, Inc.’s (“Defendants”) Reply in Support of Motion to Dismiss or, in the Alternative, Stay the Action [Docket No. 35]. Good cause exists for this Request. In their Reply brief, Defendants cite to a January 19, 2016 Order (which they attach as Exhibit A to their Reply [Docket No. 35-1]) in the matter entitled, *Thomas A. Bound v. Grand Bahama Cruise Line, LLC and Cruise Operator, Inc.*, No. 1:15-cv-2856 (N.D. Ga.), claiming the Order is dispositive of the personal jurisdiction issue raised in this case. *Bound* is easily distinguishable from the present case, and therefore has no bearing on the issues at hand. However, since the *Bound* case was not raised in Defendants’ moving papers,<sup>1</sup> it was not addressed in Plaintiffs’ Opposition. Good therefore cause exists for the filing of the Response attached hereto as Exhibit A, so that Plaintiffs can properly address this new authority raised in Defendants’ Reply brief.

DATED: March 31, 2016

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<sup>1</sup> The *Bound* opinion was issued after Defendants filed their moving papers. Notwithstanding, “[i]t is improper for a moving party to introduce new facts or different legal arguments in the reply brief than those presented in the moving papers. *United States ex rel. Giles v. Sardie*, 191 F.Supp.2d 1117, 1127 (C.D.Cal.2000); *see also State of Nev. v. Watkins*, 914 F.2d 1545, 1560 (9th Cir.1990) (“[Parties] cannot raise a new issue for the first time in their reply briefs.” (citations omitted)); *United States v. Romm*, 455 F.3d 990, 997 (9th Cir.2006) (citing *Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir.1999)); *Cedano-Viera v. Ashcroft*, 324 F.3d 1062, 1066 n. 5 (9th Cir.2003) (“[W]e decline to consider new issues raised for the first time in a reply brief.”); *Bazuaye v. INS*, 79 F.3d 118, 120 (9th Cir.1996) (“Issues raised for the first time in the reply brief are waived.”); *Ass’n of Irrigated Residents v. C & R Vanderham Dairy*, 435 F.Supp.2d 1078, 1089 (E.D.Cal.2006) (“It is inappropriate to consider arguments raised for the first time in a reply brief.”).

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**PROOF OF SERVICE VIA ELECTRONIC POSTING PURSUANT TO NORTHERN  
DISTRICT OF CALIFORNIA LOCAL RULES AND LOCAL CIVIL RULE 5-1**

I, the undersigned, say:

I am a citizen of the United States and am employed in the office of a member of the Bar of this Court. I am over the age of 18 and not a party to the within action. My business address is 1925 Century Park East, Suite 2100, Los Angeles, California 90067.

On March 31, 2016, I caused to be served the following documents:

**PLAINTIFFS' REQUEST TO FILE RESPONSE TO NEWLY RAISED  
AUTHORITY CITED IN DEFENDANTS' REPLY IN SUPPORT OF MOTION TO  
DISMISS**

**RESPONSE TO NEWLY RAISED AUTHORITY CITED IN DEFENDANTS'  
REPLY IN SUPPORT OF MOTION TO DISMISS**

By posting the documents to the ECF Website of the United States District Court for the Northern District of California, for receipt electronically by the parties as reflected on the attached Court's Service List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 31, 2016, at Los Angeles, California.

s/ Mark S. Greenstone

Mark S. Greenstone

## Mailing Information for a Case 5:15-cv-05019-BLF Phan v. Grand Bahama Cruise Line, LLC et al

### Electronic Mail Notice List

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### Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)